



Comptroller of the Currency
Administrator of National Banks

2000
**Significant Legal, Licensing and Community
Development Precedents**

OFFICE OF THE COMPTROLLER OF THE CURRENCY
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Community Development Precedents

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Activities

Banking Activities

Branching

- *Loan Approval and Misdirected Payments at LOP.* Loan approval and the occasional receipt of misdirected loan payments from customers may take place at an LPO without causing it to become a branch. Interpretive Letter No. 902 (November 16, 2000).
- *LPO/DPO/ATM Facilities Not Subject to State Branch Restrictions.* National bank LPO/DPO/ATM facilities are not "branches" subject to 12 U.S.C. 36 and state law incorporated therein. In isolation or in combination, LPOs (loan production offices), DPOs (deposit production offices), and ATMs are not branches and so are not subject to state law restrictions on branching. None of these facilities perform any of the three core functions of banking, *i.e.*, receiving deposits, paying checks, and lending money. *First National Bank of McCook v. Fulkerson*, 98-D-1024 (USDC CO - March 10, 2000).
- *Retention of Branches of Converted Federal Savings Bank.* Federal savings bank may convert to a national bank, the resulting national bank may retain all the branches of the savings bank in states where the national bank did not have branches, and the national bank may merge into an affiliated national bank and retain all the branches resulting from the previous transaction. Corporate Decision No. 2000-05 (March 28, 2000).

Corporate Governance

- *Capital Reduction with Voluntary Liquidation.* A national bank that has discontinued banking operations may reduce its permanent capital provided that the disbursement of capital is made pursuant to a plan of voluntary liquidation. Conditional Approval No. 410 (August 20, 2000).
- *Election of Corporate Governance Provisions of the Model Business Corporation Act.* A national bank may adopt corporate governance provisions of the Model Business Corporation Act (MBCA) and engage in a share exchange to ensure that its newly formed parent holding company will own 100 percent of the bank. MBCA provision allowing share exchanges are not inconsistent with applicable federal banking statutes or regulations. A national bank conducting a share exchange under the MBCA must

provide adequate dissenters' rights that are substantially similar, although not necessarily identical to those in section 215a. Interpretive Letter No. 891 (April 26, 2000).

Election of Virginia Corporate Governance Provisions. A national bank may elect the corporate governance provisions of Virginia law and complete a share exchange in accordance with those provisions. Virginia state law allowing share exchanges is not inconsistent with applicable federal banking statutes or regulations. A national bank conducting a share exchange must provide adequate dissenters' rights that are substantially similar, although not necessarily identical to those in section 215a. Interpretive Letter No. 879 (November 10, 1999).

Consulting and Financial Advice

- *Human Resources Services.* National bank's operating subsidiary may provide human resources and related services to small business clients, including: acting as co-employer of customers' employees (employee "leasing"); payroll processing; employee benefits consulting and human resources administrative services; compliance administration and safety and risk management; the sale of certain insurance products to employees through an insurance agency subsidiary; and insurance-related administrative services. Conditional Approval No. 384 (April 25, 2000).
- *"Welfare-to-Work" Counseling.* National bank's operating subsidiary may acquire a company engaged in providing government "welfare-to-work" counseling. The acquired company counsels welfare-to-work program beneficiaries on work skills and program benefits, connects them with potential employers, and handles payments from the sponsoring government agency to employers and employees participating in the program. Corporate Decision No. 2000-11 (June 24, 2000).

Finder Activities

- *Acting as a Finder for Government Entities.* National banks may provide electronic finder, custodian, record keeping, and financial agent services primarily to government entities. Permissible activities include providing a financial and banking data match program to enable states to match data on delinquent, noncustodial parents; an Internet-based electronic service that provides a catalog of services of state or federal agencies available to the public; and electronic service for state governments to process motor vehicle title applications and related payments via the Internet; and the operation of a backup call center for a federal agency. Conditional Approval No. 361 (March 3, 2000).

Leasing

- *Noncontrolling Investment in Trust to Purchase, Own, Lease Aircraft.* Non-controlling investment in a trust established to purchase, own, and lease commercial aircraft is permissible, however, because of safety and soundness concerns, the bank must charge off the investment in its entirety. Interpretive Letter No. 887 (April 30, 2000).

Lending

- *Investment in a Firm Engaged in Check Cashing and Payday Lending.* National bank may make a non-controlling investment in a firm engaged in check cashing and payday lending activities where the bank would use the firm to educate consumers about traditional banking services, alternatives to payday loans, and the limited proper use of such loans, would cause the firm to provide enhanced disclosures about payday loans, including information about the cost of multiple rollovers, would limit the use of payday loans, such as by imposing annual limits and limits on rollovers, and would assess lower fees for rollover transactions. The firm's check cashing operations also were intended to be used as a vehicle to transition customers into more traditional bank products such as savings accounts. Noncontrolling Investment Notification (March 14, 2000).
- *Lending Limit Exception for Marketable Staples.* The lending limit exception for marketable staples secured by warehouse receipts, 12 U.S.C. § 84(c)(3) and 12 C.F.R. § 32.3(b)(1)(iv)(B), does not apply if the borrower registers the warehouse receipts with an independent third party but retains control of the staples. The borrower was the owner of the elevator in which the staples were stored. Interpretive Letter No. 895 (June 22, 2000).
- *Lending Limit for Loans Guaranteed by the Illinois Farm Development Authority.* Loans guaranteed by the Illinois Farm Development Authority (IFDA) qualify for the lending limit exception contained in 12 C.F.R. 32.3(c)(5) because of an Illinois Attorney General opinion stating that IFDA loan guarantees are backed by the full faith and credit of the State of Illinois. Interpretive Letter No. 889 (May 15, 2000).
- *Overdraft Fees Not Interest.* National bank's flat fee charges to deposit customers for checks written without sufficient funds on deposit do not constitute "interest" limited by 12 U.S.C. 85. The fee is a processing fee, not compensation for an extension of credit. *VideoTrax, Inc. v. NationsBank, N.A.*, 33 F.Supp.2d 1041 (S.D. Fla. 1998), aff'd 205 F.3d 1358 (11th Cir. 2000), cert. den. 1212 S. Ct. 66 (October 2, 2000).

Other Activities

- *Donation of Fundraising Item.* National bank may donate an item for a community fundraising raffle without violating the lottery prohibition of 12 U.S.C. § 25a if the

bank was identified as the donor of the item in publicity issued by the raffle sponsors, if the publicity was not displayed on bank premises. Interpretive Letter 900 (June 19, 2000).

- *Internal Bank Financing Operations Offshore.* National bank may form an operating subsidiary in the Cayman islands to engage in internal bank financial operations, provided the OCC would have access to all books and records, no activities we conducted offshore, and the subsidiary would be subject to OCC examination, supervision, and regulation. Conditional Approval No. 413 (September 22, 2000).

Fiduciary Activities

- *Investment of Employees Benefit Account Assets.* National bank may invest assets of tax-exempt employee benefit accounts held by the bank in any capacity (including agent), in part 9 collective investment funds, provided the fund itself is exempt from federal taxation. Interpretive letter No. 884 (January 13, 2000).

Insurance and Annuities Activities

Insurance Underwriting and Reinsurance

- *Underwriting Credit-Related insurance post-GLBA.* National bank's operating subsidiary may continue underwriting credit-related insurance products in connection with loans made by the bank and affiliated and unaffiliated financial institution lenders under the "authorized product" exception of section 302 of the Gramm-Leach-Bliley Act. Interpretive Letter No. 886 (March 27, 2000).

Reinsurance

- *Reinsurance of Credit Life and Other Insurance Post-GLBA.* National bank may establish an operating subsidiary to reinsure credit life, accident, disability, and health insurance in connection with loans made by the bank and its affiliates, because the reinsurance of credit-related insurance products satisfies the "authorized product" exception of section 302 of the Gramm-Leach-Bliley Act. Corporate Decision No. 2000-16 (August 29, 2000).

Title Insurance

- *State Parity for Title Insurance Sales through an Operating Subsidiary.* National bank's operating subsidiary could sell title insurance in Pennsylvania, without being subject to the place of 5000 requirement, because state law permits title insurance sales without geographic limitations. Conditional Approval No. 371 (March 20, 2000).
- *Title Insurance Sales through a Financial Subsidiary.* Financial subsidiary of a national bank may offer title insurance in the State of New Jersey, even though New

Jersey law generally prohibits banks from selling title insurance. Corporate Decision No. 2000-14 (August 16, 2000).

Preemption

- *ATM Fees.* Local laws in California purporting to bar national banks from "surcharging" ATM users who are not bank account holders are preempted by the National Bank Act, which authorizes national banks to provide ATM services and to charge for the services they provide. Bank of America, N.A., et al. V. City and County of San Francisco, CA, et al., 215 F 3d 1132 (9th Cir., March 31, 2000), aff'g CC-99-4817-VRW (N.D. Ca. November 11, 1999).
- *Auction of Certificates of Deposit Over the Internet.* Pennsylvania laws that purport to regulate the auction of certificates of deposit over the Internet, by requiring auctioneers to be licensed by the Pennsylvania Board of Auctioneer Examiners, pay a licensing fee, and keep records of sales of property at auction, are preempted because they conflict with federal law authorizing national banks to conduct the permissible activities of deposit-taking and marketing and OCC regulations authorizing NBs to use the Internet to do so. The state laws at issue also would violate the OCC's exclusive visitorial powers over national banks. Preemption determination (March 7, 2000). *Federal Register*, 65 Fed. Reg. 15037 (March 20, 2000).

Securities Activities

- *Holding Securities to hedge Equity Derivatives Transactions.* Subject to supervisory clearance, national banks may take positions in equity securities solely to hedge bank permissible equity derivative transactions originated by customers for their independent business purposes, subject to certain qualifications and quantitative limits. The bank may not hold the securities for speculative purposes. Interpretive Letter No. 982 (September 8, 2000).
- *Investment Advisory Activities with Limited Interest in Advised Funds.* National bank may acquire a non-controlling investment in a SEC registered investment advisory company when the investment advisory company owns limited equity interests in investment funds to which it provides investment advisory and related services if the limited interests are necessary for the company to engage in bank permissible investment advisory activities due to investor demands, industry practices, and competitive factors. Interpretive Letter No. 897 (October 23, 2000).
- *Investment Vehicle for Bank Clients.* National bank's operating subsidiary, a limited liability company (LLC), may serve as a sole general partner of a limited partnership that is used as an investment vehicle for bank clients. Corporate Decision No. 2000-07 (May 10, 2000).

- *On-line Securities Trading.* National bank may acquire an indirect non-controlling interest in an entity that will provide online securities trading and related services. In general, the bank should indicate that it does not provide, endorse, or guarantee any of the products or services available through the third party web pages. For links to pages that provide nondeposit investment products, the disclosures also should alert customers to risks associated with these products, for example, by stating that the products are not insured by the FDIC, are not a deposit, and may lose value. Banks also have responsibility for the appropriate placement of disclosures via electronic means on their web page(s). Interpretive Letter No. 889 (April 24, 2000).
- *Options on Futures Contracts.* National bank may purchase options on futures contracts on commodities to hedge the credit risk in its agricultural loan portfolio. Interpretive Letter No. 896 (August 21, 2000).
- *Private Placement Services.* National bank's operating subsidiary may assist customers in the issuance of debt and equity securities by providing private placement services as agent, and financial and transactional advice to customers in structuring, arranging and executing various financial transactions, as agent, in connection with its private placement activities. While performance-linked compensation, including warrants, may be accepted as the compensation for such services, neither the bank nor the subsidiary may exercise any warrants. Corporate Decision No. 2000-02 (February 25, 2000).

Technology and Electronic Activities

Electronic Bill Payments

Electronic Bill Presentment

- *Electronic Bill Payment.* National banks may invest in an Internet electronic payment system as a complement to existing Internet bill presentment services. The system would also permit customers to make payments not linked to a presented bill. Conditional Approval No. 389, (May 19, 2000).

Electronic Commerce

- *Facilitation of Electronic Commerce Among "Member" Businesses.* National bank operating subsidiary may support and facilitate electronic commerce by and among a group of "member" businesses by using the Internet to assist member businesses: in transacting business with each other; to refer members to third party vendors that make products and services available at preferred rates; to enable members to exchange information with each other concerning possible joint activities; to host or support Web sites for members to facilitate their distribution of products and services; to develop and deploy a Web-based payment system for members; and, to deploy systems to track and store financial and transactional information. Incidental to those functions, the

Internet site may also provide access to a limited amount of non-financial information that is necessary to attract persons to a virtual small site. Conditional Approval No. 369 (February 25, 2000).

- *Electronic Storage.* National bank may provide electronic storage and retrieval for external customers (i.e., nonbanking customers). Interpretive Letter No. 888 (March 14, 2000).
- *Services to Internet Merchants.* National bank's operating subsidiary may provide services to merchants that facilitate the sales of goods and services over the Internet. The company will offer a package of Internet services that bundle payments processing with the support necessary for merchants to have their web sites linked to a "virtual mall" web site. The company will also offer these services to other financial institutions on a wholesale basis for their respective customers. Corporate Decision No. 2000-08 (June 1, 2000).

Internet Access Service

- *Provision of Internet Access to Bank Customers.* National bank operating subsidiary may provide Internet access to customers in its service area, as an incidental activity to the bank's provision of Internet banking services. Conditional Approval No. 409 (August 10, 2000).

Software Development and Production

- *Provision of Internet-Based Services to Government Agencies.* National bank may acquire a non-controlling interest in a LLC that enters into contracts with federal, state, and local government agencies to provide a package of Internet-based services, including development of Web sites, hosting of Web sites, and providing related merchant processing services. Interpretive Letter No. 883 (March 3, 2000).
- *Sale of Web Site Software and other Web Site Hosting Services.* National bank operating subsidiary may engage in the sale of Web site editing software as part of a bundle of Internet-based Web site hosting services for bank customers. The bank will also use the operating subsidiary to develop new software products to be used by the bank in conjunction with its transaction processing services and in developing its own Internet-based services. Corporate Decision No. 2000-01 (January 29, 2000).

Investments¹

- *Consolidation of Public Welfare Investments into CDC.* National bank may consolidate its public welfare investment activities in an existing community development corporation ("CDC"). The CDC would manage its portfolio so that the

¹ For investments in partnerships, note that subsidiaries of national banks may become general partners, but national banks may not.

majority of its investments qualify as public welfare investment under 12 C.F.R. part 24. Thus, the CDC would be primarily engaged in making public welfare investment, and the bank's investments in the CDC would be designed primarily to promote the public welfare, as required by 12 U.S.C. § 24(Eleventh). Approval Letter (February 14, 2000).

- *Fund to Acquire Limited partnership Interests in Native American Affordable Housing.* National bank may made an investment in a fund created to acquire limited partnership interests in affordable rental housing properties that are located on, or near Native American reservations in Arizona, Wisconsin, Minnesota, Montana, North Dakota, South Dakota, and Wyoming. The fund's projects qualify for federal low-income housing tax credits and historic rehabilitation tax credits and primarily target low- and moderate-income persons and families. Each project is sponsored by an Indian Tribe, an affiliated Tribal Housing Association, Indian Housing Authority, Indian Tribally-Designated Housing Entity, Indian nonprofit housing corporation, or similar tribal entity. Approval Letter (April 10, 2000).
- *Historic Tax Credit Investment.* National bank may invest in Historic Tax Credit investment in the Central Vermont Arts Center Limited Partnership. The Partnership will finance the renovation of a vacant historic property located in an economic revitalization area in Barre City, Vermont. The general partner and project sponsor is a nonprofit corporation that will also lease space for artists and operate an art gallery and teaching facility. The facility will support the establishment of small businesses by providing artists and artisans with studio space and an opportunity to market their work. The proposal was consistent with 12 C.F.R. Part 24 because the project was intended to serve as the cornerstone for renewed small business investment and area revitalization, and the property was located in an area that the local government had targeted for revitalization. Approval Letter (October 19, 2000).
- *Investment in Bank Holding Company as Consideration for Sale.* Where a group of financial institutions that jointly owned an EFT network was selling the network to a bank holding company, several national bank members of the group may acquire small equity interests in the bank holding company as consideration for their interests in the network. Interpretive Letter No. 890 (May 15, 2000).
- *Stock in Life Insurance Underwriter.* National bank may accept and retain stock in a life insurance underwriter that it received as a result of being a policyholder of the company, which was converting from mutual to stock form ("demutualization"). Interpretive Letter (June 29, 2000).

Enforcement Actions

- *Allegation of Misleading Accounting for Asset Sales and Purchases.* OCC placed a Temporary Cease and Desist Order on the Bank pursuant to 12 U.S.C. § 1818(c), relying principally upon the incomplete or inaccurate books provision the statute, but

also alleging that the Bank had engaged in unsafe or unsound practices that, if continued, were likely to cause significant dissipation of assets or earnings. The OCC alleged that the Bank had engaged in certain prohibited transactions by structuring and accounting for certain asset sales and purchases in a misleading fashion. OCC alleged that the bank incurred substantial loss in the process, and failed to maintain correspondence and other records that would allow the examiners to evaluate the transactions through the normal supervisory process. The Temporary Cease and Desist Order was not challenged by the Bank, and the Bank ultimately settled the action by signing a Stipulated Cease and Desist order. In the matter of Hamilton Bank, N.A., Miami, Florida (OCC-AA-EC-00-03).

- *Use of Bank funds for Personal Benefit of Officer.* This Bank, with total assets of \$110 million, was principally owned and operated by Chairman of the Board John Grady Melacon. An investigation conducted disclosed that Mr. Melacon had repeatedly caused Bank funds to be used for his personal benefit. In March 2000, Mr. Melacon was removed as the Bank's Chairman and consented to the issuance of orders or prohibition, restitution and civil money penalties. First National Bank of Gonzales, Gonzales, Louisiana (OCC-EC-00-22).
- *Deficiencies in Subprime Lending Operations causing Devaluation of Securitized Loan Pools.* In February 1998, this Bank changed the primary focus of its business lines to subprime mortgage lending, and the securitization of these loans into pools, with the Bank retaining a residual ownership interest. During an examination commenced in March 2000, it was determined that the Bank had failed to establish performance standards that would permit its subprime lending to be conducted in a safe and sound manner. The asset quality of the subprime mortgage loan pools showed considerable deterioration, resulting in significant unrecognized devaluation of the Bank's residual interests. In addition, it was discovered that the Bank was using its funds to cover interest and principal shortages in the securitized mortgage loan pools on behalf of an affiliate. On May 31, 2000, the Bank consented to a cease and desist order requiring recapitalization, limitations on growth, prohibition on the funding of advances for the benefit of affiliates, recognition of the true value of the Bank's residual assets, and the adoption of new policies and procedures for subprime lending. Thereafter, the Bank executed a Formal Agreement with the OCC requiring a reduction in residual asset valuation, an increase in the loan loss allowance, and the collection servicing fees due from its parent. In the Matter of Advanta National Bank, Wilmington, Delaware (OCC-EC-00-31).
- *Deficiencies in Subprime Credit Card Operations Resulting in Required Self-Liquidation and Restitution.* In 1998, a CEBA credit card bank began offering credit cards to subprime borrowers in which substantial up-front fees were paid by customers for the privilege of obtaining only minimal credit availability. An examination that began in early 2000 disclosed serious deficiencies in the Bank's books and records, suspected illegal transfers of funds to Bank affiliates, and the likelihood that the Bank would become insolvent. In February 2000, the Bank consented to a cease and desist

order requiring the termination of then existing contractual relationships with the Bank's affiliates, the cessation of further credit card activities, and monthly demands on the Bank's parent companies for capital and liquidity support. Following an OCC formal investigation, in June 2000, the Bank consented to a second cease and desist order requiring the Bank's orderly liquidation by year-end 2000. At the same time, the OCC issued consent cease and desist orders against the Bank's parent companies, requiring these companies to provide the funds necessary to liquidate the Bank without any loss or cost to the Bank Insurance Fund. All deposit liabilities were paid off by the Bank in October 2000. This is the first case in which the OCC utilized its enforcement authority to require a national bank to self-liquidate, and used its restitution authority to require corporate shareholders to fund a bank's liquidation without any loss or cost to the FDIC insurance fund. In the Matter of United Credit National Bank, Sioux Falls, SD (OCC-EC-00-33, 34 and 35).

- *Required Restitution to Credit Card Customers for Practices Identified by the OCC as Unfair or Deceptive.* In June 2000, the bank consented to the issuance of a Cease-and-Desist Order that required restitution of at least \$300 million to its credit card customers and correction of numerous credit card practices that the OCC identified as unfair or deceptive in violation of the Federal Trade Commission Act. The OCC believes that the bank failed to adequately disclose to consumers the significant limitations in several credit card products and programs it marketed. The San Francisco District Attorney's office and the California Attorney General's office entered into a parallel action against the bank's parent company. In the Matter of Providian National Bank (OCC-EC-00-53).
- *Fraudulent and/or Questionable Charges by Telemarketers in Merchant Processing Activities, Resulting in Chargebacks and Undercapitalization.* The Bank engaged in the intermediary processing of credit card transactions between third-party vendors and credit card associations. During the Bank's exit from this merchant processing activities, several telemarketer-merchants made fraudulent and/or questionable charges on credit card accounts processed by the Bank. The Bank failed to: (i) retain sufficient staff to properly monitor the Bank's merchant processing activities; (ii) implement adequate controls to exclude contractually prohibited merchants (telemarketers) from being placed on the approved list of merchants; and (iii) timely identify fraudulent credit card charges. As a result, the Bank became responsible for the chargebacks, resulting in millions of dollars of losses that rendered the Bank critically undercapitalized. In December 2000, the OCC served an immediately effective Prompt Corrective Action Directive on the Bank pursuant to 12 U.S.C. § 1831o requiring the infusion of additional capital, prohibiting the Bank from engaging in further merchant processing activities, and directing the immediate termination of the Bank's contracts with credit card merchants. This case is of significance because it is one of the few times the OCC has used the authority under PCA to require the immediate termination of a Bank's activities, including contractual obligations owed to third parties. In the Matter of National State Bank of Metropolis, Illinois (OCC-EC-00-54).

Regulations

- *Part 5: Financial Subsidiaries and Operating Subsidiaries.* This rule implements Section 121 of the Gramm-Leach-Bliley Act, which authorizes national banks to conduct expanded financial activities through financial subsidiaries. Under Section 121 and the final rule, a financial subsidiary may engage in specified activities that are financial in nature and in activities that are incidental to financial activities if the bank and the subsidiary meeting certain requirements and comply with prescribed safeguards. National banks also may continue to engage through operating subsidiaries in activities that are part of, or incidental to, the business of banking. The final rule made conforming changes and streamlined procedures for banks that engage in activities through operating subsidiaries. Finally, the rule made corresponding changes to Part 5 to streamline procedures for banks making certain types of non-controlling investments. The final rule was published in the *Federal Register* on March 10, 2000 and took effect on March 11, 2000. The rule appears at 65 Fed. Reg. 12905.
- *Part 40: Privacy of consumer Financial Information.* This rulemaking added a new regulation that implements the consumer privacy provisions set out in Title V of the Gramm-Leach-Bliley Act. Under the regulation and statute, a financial institution may not share nonpublic person information with nonaffiliated third parties unless the institution first informs its consumers that it intends to share this information and provides the consumer with an opportunity to opt out of the sharing. A financial institution also must provide its customers, no later than when the customer relations is established and annually thereafter, with a copy of its privacy notice. The OCC and other federal banking agencies jointly published this final rule in the *Federal Register* on June 1, 2000. The rule appears at 65 Fed. Reg. 35162.
- *Part 14: Consumer Protections for Depository Institution Sales of Insurance.* The final rule was issued by the OCC, together with the Federal Reserve Board, the FDIC, and the OTS, pursuant to Section 305 of the Gramm-Leach-Bliley Act. Section 305 requires the Agencies to establish consumer protections that apply when depository institutions sell insurance. The rule applies to retail sales practices, solicitations, advertising, or offers of insurance products by a depository institution or by any person engaged in those activities at an office of, or on behalf of, the institution. The rule includes, for example: provisions prohibiting sales practices that would lead a consumer to believe that an extension of credit is conditioned upon tying arrangements prohibited by Section 106 of the Bank Holding Company Act Amendments of 1970; provisions requiring that appropriate disclosures be given; and provisions requiring, to the extent practicable, the physical separation of banking and insurance activities. The final rule was published in the *Federal Register* on December 4, 2000. It appears at 65 Fed. Reg. 75822.
- *Part 8: Assessment of Fees; National Banks; District of Columbia Banks.* This regulation amends the formula that the OCC uses to assess independent trust banks. A trust bank is considered independent for purposes of this regulation if it specializes in

trust activities and is not affiliated with a full-service national bank. Under the revised rate structure, all independent trust banks will be assessed based on balance sheet assets plus a minimum fee as provided the OCC in the annual Notice of Comptroller of the Currency Fees (Notice of Fees). Independent trust banks with assets under management in excess of \$1 billion would pay an additional amount based on a declining marginal rate, which also will be provided in the Notice of Fees. The OCC published this final rule in the *Federal Register* on December 5, 2000. The rule appears at 65 Fed. Reg. 75859.

- *Part 30: Interagency Guidelines Establishing Standards for Safeguarding Customer Information and Rescission of Year 2000 Standards for Safety and Soundness.* This rulemaking implements Section 501(b) of the Gramm-Leach-Bliley Act. Section 501(b) requires the federal banking agencies, among others, to establish appropriate standards for the financial institutions subject to their respective jurisdictions relating to administrative, technical, and physical safeguards for customer records. These standards are intended to ensure the security and confidentiality of customer records; protect against anticipated threats or hazards to the security or integrity of such records; and protect against unauthorized access to or use of such records that could result in substantial harm or inconvenience to a customer. The OCC and other federal banking agencies jointly published this final rule in the *Federal Register* on February 1, 2001. The rule appears at 66 Fed. Reg. 8816.
- *Part 35: CRA Sunshine.* This final rule implements Section 711 of the Gramm-Leach-Bliley Act, which requires parties to certain agreements related to the Community Reinvestment Act of 1977 (CRA) to disclose those agreements and report on them. The rule identifies the types of written agreements subject to the statutory requirements primarily by defining key statutory terms. For example, the rule indicates when an agreement is "in fulfillment of the CRA" and when a non-government party has engaged in a "CRA contact" with a banking organization -- two key conditions for determining whether the agreement is covered by the statute. The rule also describes how the parties must make disclosure of a covered agreement to the public and to the appropriate regulators and explains how the parties must comply with the annual reporting requirement. The OCC and the other federal banking agencies jointly published this final rule in the *Federal Register* on January 10, 2001. It appears at 66 Fed. Reg. 2052.